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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,036	06/19/2003	Kenneth W. Wood	020552-003330US	8459
20350	7590	07/10/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			JOYCE, CATHERINE	
		ART UNIT	PAPER NUMBER	1642

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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1. The Amendment filed April 19, 2006 in response to the Office Action of December 19, 2005 is acknowledged and has been entered. Previously pending claims 2-59 have been canceled, claim 60 has been amended, new claims 78-79 have been added, and claims 1, 66, and 69-73 remain withdrawn. Claims 1 and 60-79 are pending. Claims 60-65, 67, 68, 74-79 have been withdrawn from further consideration by the examiner under 37 CFR 1.142(b) as being drawn to non-elected inventions for the reasons set forth below.

2. The claims as currently constituted are directed to a method of diagnosing a hyperproliferative disorder in an individual comprising determining the expression level of kindle-like spindle protein (KSP) in a sample obtained from the individual and comparing the KSP expression level in the sample with the expression level of KSP in a control of known proliferation state, wherein an increase in the KSP expression level in the sample as compared to the control indicates that the individual has a hyper-proliferative disorder which is a distinct invention from the invention originally presented in application Serial No. 10/601036 which is directed to a method of assessing an individual's risk for a hyperproliferative disorder, comprising (a) determining the expression level of KSP in a sample obtained from the individual; and (b) comparing the KSP expression level in the sample with the expression level of KSP in a control of known proliferation state; and (c) assessing the individual's risk for the hyper-proliferative disorder on the basis of the comparison of step (b). The newly claimed invention is now drawn to a distinct method that differs in populations analyzed and method steps from the method originally presented in application Serial No. 10/601036.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 60-65, 67, 68, 74-79 are withdrawn from consideration as being directed to a non-elected invention. See 37 C.F.R. 1.142(b) and M.P.E.P. 821.03.

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3. The amendment filed April 19, 2006 amending all of the claims to an invention not originally presented is nonresponsive (see MPEP 821.03). The remaining claims are not readable on the originally presented invention for the reasons set forth above. Applicant is given a ONE MONTH time limit or until the expiration of the response period set in the last Office action, whichever is longer, to complete the response. NO EXTENSION OF THIS TIME LIMIT WILL BE GRANTED UNDER EITHER 37 CAR 1.136(a) OR (b) but the period for response set in the last office action may be extended up to a maximum of SIX MONTHS.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine M. Joyce whose telephone number is 571-272-3321. The examiner can normally be reached on Monday thru Friday, 10:15 - 6:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SUSAN UNGAR, PH.D
PRIMARY EXAMINER

Catherine Joyce
Examiner
Art Unit 1642

